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THE RIGHT OF SELF-DEFENCE.

The right of self-defence is a God-given right, not dependent on, nor given, nor taken away by the ordinances or statutes of man. It has a much broader and higher application than to individuals. It is one of the highest, if not the highest, right known: "To be or not to be, that's the question." The right to exist, whether as a man, a corporation, or a nation, carries with it the right to defend that existence. It has always been recognized by international law as one of the highest, most far-reaching of national rights. No one will dispute that it exists as a national right. It is, however, sometimes overlooked or given but slight consideration, when new national questions of the gravest importance suddenly arise and call for action. It is its application to some of the new and weighty questions, which have recently arisen and are now arising in the life of this nation, that I propose briefly to call attention to.

The right has as broad application to the life of a nation as to the life of an individual. The individual—himself being blameless—may exercise it whenever he has reasonable ground to believe, and does believe, that his life is imperilled, or great bodily harm impending. So may a nation in like manner and for a like cause exercise it. Great bodily harm impends over a nation whenever any of its sovereign rights are being wantonly assailed. In the case of the individual and the nation the circumstances threatening such peril or grievous harm may be as varying and changeful as the

waves of the ocean, or the currents of the atmosphere. The individual may invoke its aid to rescue wife, child, or other person under his protection, or his neighbor even, when assaulted in his presence. The nation also may use it in defence of itself, of its citizens, of its allies, and, under certain circumstances, of its national neighbors.

It applies to a much greater variety of occasions in the national than in the individual life. In the national life it justifies the creation of armies and navies, with all the accompanying train of heavy burdens, the formation of treaties of offence and defence, holy and other alliances. It furnishes the only substantial ground for the Monroe Doctrine. That doctrine announced to the nations of Europe and of the world, that this nation would deem any interference by the nations of Europe in the national affairs on this continent, such as a combination to maintain a balance of power, or to uphold or establish a monarchical government, an unfriendly act to be resisted by this nation, because it considered that such act would necessarily tend to endanger its being or some of its sovereign rights, a clear claim of the right to act in self-defence under such circumstances. The recent war with Spain was but another assertion of this right. The preamble of the joint resolution of Congress, approved April 20, 1898, as causes for the demand upon Spain at once to relinquish its authority and government of the island, counts upon the abhorrent conditions which had existed in the island for more than three years, shocking to the moral sense of the people of the United States, a disgrace to Christian civilization, culminating in the destruction of the Maine with 266 citizens of this nation, of its officers and crew. It is also well known that the abhorrent conditions created or allowed to exist there by Spain were very disturbing and threatening to the peace of the nation, and imposed heavy burdens and onerous duties. Because of the disclaimer to any disposition or intention to exercise sovereignty, jurisdiction or control over the island except for its pacification, this has often been called a humanitarian war; but when the language of the preamble and the well-known surroundings are considered, it is evident that it was a war waged in assertion of the right of self-defence. The Monroe Doctrine and the war with Spain are rare, and somewhat exceptional, applications of the right of self-defence. They are evidently the exercise of that right by the United States to its fullest extent.

No apparent reason exists why it should not exercise this right in determining the new and far-reaching questions which have come as the result of the war with Spain. One of its results was the

acquisition of Porto Rico and the Philippine Islands. It is needless to inquire whether the treaty by which they were acquired ought, or ought not, to have been made and ratified. It has been both made and ratified. The nation now has to deal with the new and important questions which their acquisition has brought. Unlike the other territories with which the nation has had dealings, these islands are thickly inhabited by peoples having little knowledge of, and no experience in, government by the people, for the people. For more than 300 years they have exercised none of the rights of sovereignty. They are of many tribes, speaking many dialects, and, at best, of all degrees of civilization. They are generally believed to be incapable of self-government. By the ratification they became subjects of the United States. Did they, or the children thereafter born to them, become citizens of the United States? If so, by coming into and residing in one of the States—and if citizens or subjects even, they have the right to come—they can take part through the elective franchise in wielding the national sovereignty, and thereby may become an element of danger. If Congress should so judge, can it, in the exercise of the right of self-defence, fix their *status* accordingly? Or does the constitution bar Congress from using this right in determining their *status?* The treaty leaves their *status* to be determined by Congress. In this respect it is unlike former treaties by which territory has been acquired. The answer to these questions must be determined by an examination of all the provisions of that instrument in the light of the facts and circumstances which attended the bringing of it into existence.

I think it must be conceded that somewhere in our dual form of government, either in the nation or in the States, the right of self-defence exists to its fullest extent. It will hardly be contended otherwise. The thirteen original States were colonies of Great Britain. Great Britain and all nations always have exercised the right of self-defence in its fullest extent in governing outlying territories or dependencies, unless the status of their inhabitants had been determined in the treaty by the ceding power. Great Britain established colonial governments in what are now the thirteen original States. These colonies, in the exercise of the right of self-defence, became united, formed an alliance offensive and defensive, and by the declaration of independence declared themselves to be "free and independent states, and to have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do." Of these acts and

things, one of the most essential and important is the exercise to its fullest extent of the right of self-defence. By Article One of the treaty of peace, "His Britannic Majesty acknowledges the said United States"—naming them—"to be free, *sovereign* and independent States; that he treats with them as such, and for himself, his heirs and successors relinquishes all claims to the government, property and territorial rights of the same and every part thereof." There can be no question but that these thirteen independent, free, sovereign States, by gaining their independence, acquired all the rights and powers possessed by other independent nations; among which is the right and power so to hold and treat any people coming under their sovereignty as fully to protect that sovereignty from loss or serious detriment. The sovereignty thus acquired was vested in the thirteen States specifically named, called in the treaty as one body, "the United States of America." This name they assumed in the Declaration of Independence, signed by the representatives of each State and ordered to be "proclaimed in each of the States, and at the head of the army." Before and at the time the constitution was adopted, "the United States of America" had the well-known, definite meaning of the States united. This fact should be kept in mind, when we read that instrument to ascertain what powers are thereby given to the nation created, and what are reserved to the separate States.

It has been contended by eminent statesmen, while conceding that the original thirteen States had the full powers of sovereignty possessed by other independent nations, that the power to deal with the inhabitants of territories or other dependencies like such other nations, was not conferred upon the United States, but was reserved to the several states, under Article X of the Amendments to the Constitution, reading, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." They further contend that the term, United States, as used in the Constitution, includes the States and territories, or the entire broad domain over which the nation exercises sovereignty. Then they assert that Article XIV of the Amendments declares: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside," whatever may be their character or fitness; that they have the right to come into any of the States in such numbers as they may choose, and there reside and take part in the exercise of the sovereignty of the

nation by the exercise of the elective franchise, which is the right of all male native-born citizens who have attained their majority, when residing in a State, unless they have in some way forfeited it. Some go so far as to contend that all Porto Ricans and Filipinos were made citizens of the United States by the ratification of the recent treaty with Spain, claiming that the Constitution, on the ratification of the treaty, became operative there of its own inherent force, unaided by action of Congress. But it is a more plausible claim that only the children, born in those islands after the ratification of the treaty, become citizens of the United States. If these contentions are valid, then the nation is barred from the exercise of the full right of self-defence against such citizens. However unfitted, however dangerous, by coming into and residing in one of the States they can take part in the exercise of the sovereignty, and might become numerous enough to overturn the government and establish on its ruins one of another and very different character. Hence the possible, far-reaching consequences, if the nation is barred from exercising this right.

Of the contention that the Constitution becomes operative in the territories of its own inherent force, without the aid of an Act of Congress, but little need be said. By the legal profession it is generally admitted that the constitution and laws of a nation have no extra-territorial application and no self-executing power. The Constitution, made by the thirteen original States for the establishment of a common government over them, establishes three departments of government, explains their powers, the powers given up to it, and the powers reserved to the States. It professes to be made for the protection of the rights of these States and their inhabitants, and for no other purpose. Through these States and such others as have been and shall be admitted to the United States of America, according to the provisions of the Constitution, every function of the sovereignty of the nation created, has been and is to be exercised. The inhabitants of the territories, though under its dominion, can not participate in the exercise of these functions. There is only one provision of it, the XIIIth Amendment, in regard to slavery, which in terms is given operation outside the territorial limits of the States. The amendment reads: "Neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." This amendment limits the meaning of the term, United States, to that of the States united. This is sig-

nificant of the intention of its framers. If they had supposed that the Constitution with its rights, limitations, and immunities extended wherever the nation exercises its power, this last clause of the amendment would have been unnecessary. It is also significant, that in the Constitution and in the Amendments, with the exception of the last clause of the XIIIth Amendment, there is not a word nor clause that indicates that it was intended to have an operation of its own force outside the States, which *adopted* it. That it has no such force, unaided by a treaty or Act of Congress, is in accordance with the views of those who framed and adopted it, and with the action of Congress for over one hundred years, with a single exception. The inhabitants in the territories belonging to the States when they gained their independence, which were subsequently transferred to the national government by the Northwest Territorial Act and other territorial Acts, were given most of the rights, privileges and immunities of the Constitution by special provisions in the territorial Acts. In these territories the Constitution, made by these States, creating the national government, would become operative of its own force, if in any. Yet the statesmen who framed the Constitution, contemporaneously with the Northwest Territorial Act, did not so understand. The treaties by which Louisiana, the Floridas, New Mexico, and California were acquired, contained a provision incorporating their inhabitants in the Union of the United States, and providing that they should be "admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States." Yet all the Acts establishing territorial governments in these cessions, which I have examined—and I have examined most of them—contain a provision, either extending to their inhabitants all the rights, privileges and advantages granted and secured by the Northwest Territorial Act of 1787, or providing that the Constitution and all laws of the United States, which are not locally inapplicable, shall have the same force and effect within the territory as elsewhere within the United States. This uniform action of the statesmen of the nation can have reasonable explanation only on the hypothesis that they understood that the privileges of the Constitution did not extend to the inhabitants of such territories, except by an Act of Congress, even when their inhabitants had been incorporated into the Union by a treaty which was the law of the land. The Northwest Territorial Act and some of those treaties contain a provision that the territories shall also be admitted as

States. Such a provision was in the treaty by which New Mexico was acquired. She at once formed a constitution, unobjectionable in contents and form, elected a member of the House of Representatives and two Senators, and presented herself to Congress for admission as a State. Congress replied that New Mexico must wait its pleasure, and gave her a territorial government. This was in 1848, and the territory is still waiting the pleasure of Congress. Under governments created by Congress for territory incorporated into the Union by the treaty of cession, and whose inhabitants were made citizens of the United States, none have been allowed to participate in administering any of the functions of the national government. This privilege has come to them only when admitted as States. Even citizens entitled to exercise the electoral franchise, on removing from a State to such territory, lose that right while residing in the territory. The exception to this uniform action of the statesmen of this nation is the claim of some of the southern statesmen, notably John C. Calhoun, made about half a century after the government was organized, that the Constitution of its own inherent force entered the territories and carried the right to hold slaves there. This was earnestly contested by the statesmen of the northern non-slave-holding States, and was one of the causes, if not the principal cause, which led to the Civil War, and was settled by that war adversely to the claim of the Southern statesmen. With this exception, historically from the beginning of this government, the inhabitants of the territories have not been considered as protected by the provisions of the Constitution, or to have the right to participate in the exercise of the sovereign power created by it. Much more might be urged against this contention, but I forbear. I understand the recent decision of the United States Supreme Court in the island cases denies the contention. It is noticeable that in all its dealings with territories the nation has exercised the right of self-defence.

The other more plausible contention is equally groundless. A careful reading of the Constitution makes it plain that "United States," as therein used, means the States united and no more, whenever it has reference to the inhabitants and territory in which dwells the national power thereby created, or the persons to whom the rights, privileges, immunities and advantages therein specified are secured. When applied to the exercise of the power or sovereignty of the nation, it may in a few cases include the territories and dependencies of the nation. I do not find these words therein used with any other meaning. With the exception named, they

evidently have the meaning of the States united, and no other. Notice the language of Section 1 of the XIVth Amendment: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." It must be borne in mind that this and the XVth Amendment were brought into the Constitution at the close of the Civil War, during the reconstruction period, for the protection of the enfranchised slaves and their descendants, whose births were and would be in some one of the States united. United States as here used must mean the States United. Birth, to give citizenship, except when the parents are citizens, must occur in the United States. Thereupon, immediately, the child becomes a citizen of the United States, and of the State wherein it resides, that is, resides when born. Then Section 2 treats of the apportionment of Representatives, and the right to vote for officers of the United States or of a State, functions of government which must be exercised in one of the States. The other sections are of like import. The Article can not reasonably be held to confer citizenship upon a child of parents not citizens born in a territory, or where the government exercises dominion only. Article X of the Amendments no more supports this contention, when read in the light of the other provisions of the Constitution, wherein the States confer power upon the general government and exclude themselves from its exercise. The war-making power is given wholly to Congress. It must declare war, and furnish the armies and navies with which to prosecute it. The treaty-making power is given wholly to the President by and with the advice and consent of the Senate. The States are expressly prohibited from exercising either of these powers. Congress alone has power to levy imposts and taxes for the support of the government, and to appropriate money out of the national treasury. The States have no such power. Territory can be acquired only by the exercise of one or more of these national powers, unless it be by discovery and occupation exercised by the national government. The powers necessary to acquire territory are not only expressly conferred upon the national government, but expressly prohibited to the States. The right to acquire territory implies and carries with it the right to govern such territories. The Constitution also expressly declares that "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." This is its only provision respecting territories. Territory here is classed with property belonging to the

United States and subject to be disposed of by Congress. Certainly if the character of the inhabitants of acquired territory is such as may reasonably prove detrimental to the government, if clothed with the rights and privileges of the citizens of the United States, it is a needful rule or regulation that they be not given the rights of citizens of the United States. From whatever point considered, it is clear that Congress is not barred from the exercise of the right of self-defence in reference to the inhabitants of acquired territory, if it shall reasonably judge their character is such that conferring the rights of citizenship may endanger the peace or safety of the republic. Another clear indication that the founders intended that Congress might exercise the right of self-defence to its fullest extent is found in the power given to establish a uniform rule of naturalization. There is not a provision of the Constitution which, on any principle of interpretation known to me, can fairly be held to curtail the national government in the exercise of the God-given right of self-defence to its fullest extent.

Congress has always carefully guarded the Acts conferring territorial government. Sometimes it has given the legislative power wholly to its appointees, and withheld it wholly from the inhabitants. Often it has given local legislative power to some extent to representatives elected by its inhabitants, but in such case it has carefully prescribed who of the inhabitants should exercise the elective franchise. In all cases the laws enacted are subject to be repealed by Congress. The Governor, the Marshal, and the Chief Judge have always been appointed by the President. The ultimate control of the three departments, executive, legislative and judicial, has always been retained by the general government. This has been done when the territory was in training to become a State. Much more should it be done when there is no obligation and no expectation of giving it the right of statehood.

The nation's relations to these island territories are such as call for the exercise of care and of this right of self-defence. The other territories were but sparsely peopled, if inhabited at all, and, with the exception of Alaska, were contiguous to some of the States. Their inhabitants were supplied largely from the States, and were acquainted, more or less, with our institutions and their workings. These are distant from the states, thickly inhabited with mixed races, speaking a language different from the English, having institutions and customs very dissimilar from what prevail here. We are but slightly informed in regard to their character, customs and in-

stitutions. They know little, if anything, of ours. Prudence dictates that this nation should receive them heartily, but cautiously, keeping all the guards up against endangering our customs or institutions, certainly until they have passed a considerable probationary period.

In addition to the constitutional objections, those who criticise the action of Congress and the course pursued by the late President in regard to these island territories are strenuously insisting that that course antagonizes the spirit of our government, and that it is imperialistic. They parade on all occasions that sentence from the Declaration of Independence: "That to secure these rights"—life, liberty, and the pursuit of happiness—"governments are instituted among men, deriving their just powers from the consent of the governed." All concede this as a general principle, but it is only a brief, and very general, statement of it. To fully understand it, we should keep in mind the application which those, who framed the Declaration of Independence, made of it. The Constitution, which brought into existence the national government, was never submitted to the people for their consent. It was discussed publicly, and adopted by a majority of the representatives of the people in each State. It became the paramount law of the land against the consent of the minority. These representatives were not chosen by more than about one-fourth of the people, and in some cases by a much less number. Women and minors had no voice in their selection, and were not either directly or indirectly asked to consent to it. The generation of males who had attained majority were never asked but once to consent, through a majority of the representatives even. All the following generations gave no consent directly to the government thus established by the fathers. By acting under it and partaking of its benefits they directly consented. On the election of President Lincoln the Southern States dissented most earnestly, and waged a vigorous war for four years to maintain their dissent. When brought back into the fold by the strong arm of the government, they were not asked to consent to remain, but government was exercised over them, whether willing or unwilling. Not all males who have attained majority are given the elective franchise. Limitations of various kinds upon granting the right to exist in different States, such as property rights and educational attainments. In short, "consent of the governed," as used in the Declaration of Independence, did not mean the consent of all the people, but of a majority of a few chosen representatives, selected by a majority of another chosen few,

comparatively. The consent of the governed is obtained through a majority of a portion of the people, who have certain prescribed qualifications, not the same always in the different States.

This consent is derived principally from the enjoyments of the benefits of the government. The elective franchise, when touching the national government, must be exercised in one of the States. No person, having the right to exercise it in a State, has ever been allowed to exercise it in one of the territories, so far as relates to the national government. The course pursued by Congress and the late President in regard to the island dependencies has not violated the doctrine of the consent of the governed, as practiced by those who announced it. Neither is their course imperialistic. There can be no imperialism under our form of government, except in the voters. They control and give character to the action of the national government. They choose the President once every four years, representatives to Congress once every two years, their representatives in the State Legislatures elect the Senators every six years. Congress only can declare war, and furnish armies and navies to carry it on, and can appropriate money to maintain them for not exceeding two years. The President, with the advice and consent of the Senate, makes treaties. Organized governments and institutions acquired by a treaty become paralyzed and inert in every function on the withdrawal of the sovereignty of the ceding power. The rights of property and of individuals are not changed. Offices and officers have no legal existence, except as they may be allowed to continue as a matter of necessity. If an insurrection arises in the ceded territory, the President may use the army and navy for its suppression, even as he may, without the call of the Governor or of the Legislature of a State, when it affects national rights, like the interruption of inter-State commerce or the transmission of the mails. With no insurrection existing nor arising, the President is charged with the care of the ceded territory, as he is with the other property of the nation; but, acting in his civil capacity, he can not originate offices, appoint officers, nor appropriate a dollar from the national treasury to pay for their services. The creation of offices, the power to appoint officers to fill them, and the appropriation of money from the national treasury to pay for the execution of the functions of various offices, is the province of Congress. Offices and officers are of little avail unless they have the treasury behind them, giving action and vigorous life. Appropriations from the treasury must originate in the House of Representatives, chosen every two years

by those of the people who are given the right to wield the elective franchise. The ballots cast by these make Presidents, make members of Congress, make representatives to the State Legislatures, who elect Senators. Hence the ballot is the only power that exists under our form of government which can ever become imperialistic. Ballots, therefore, being the fountain of all power in our form of government, the God-given right of self-defence demands that careful attention should be given in selecting those who are given the right to cast them. Being the primary source of all governmental power, those who wield it should be both intelligent and honest, —especially honest,—otherwise their unwise action may overturn this government "of the people, for the people, by the people."

In these times how can these qualifications be secured in the voters of the nation? In other words, how can the danger element, in the exercise of the right of self-defence, be eliminated from among those who wield the elective franchise? These are difficult practical questions, and, if not entirely new, are growing in importance in these hurrying, rushing times of millionaires and of corporations having immense moneyed capitals. One danger element among those who exercise the elective franchise, is the criminal class, another, those who are indifferent to its exercise, and another, those who prostitute it to the base purpose of buying and selling, directly or indirectly, its use for gain. To defend the nation against the dangers threatened from these sources, stringent and effective laws should be enacted. In enacting these laws it must be remembered that the elective franchise is a most important trust as well as a personal right—a far-reaching trust affecting the existence of the nation, and all the rights, privileges and immunities secured through it. No one should enjoy the right who will not, faithfully, honestly discharge the trust. Laws should be enacted which not only confer the right but will secure a discharge of the high trust.

First, every person convicted of a crime punishable by imprisonment in the State prison or house of correction should be forever deprived of the right of suffrage by the constitution of the State. A statute making it a part of the penalty would be ineffective. It is well known that an appeal to the Legislature will always secure the passage of an act restoring the convict to his former rights and privileges. It is doubtful if such an appeal ever was or would be refused. Only a constitutional provision would accomplish the purpose. Such a provision would be a restraint upon the commission

of crime. It would also discourage candidates from coming into the field who appeal to, and rely upon, the aid of the criminal class for election. Why, in this land, under the rule of law, should those who defy and disregard law participate in enacting it? The law should go further, and deprive of the exercise of this right for a longer or shorter time, dependent upon the nature of the offence, those who commit minor offences. Such laws would, in a measure, eliminate from the voters the criminally inclined, and remove, in part at least, this source of the danger element.

Secondly, the elective franchise imposes a duty, as well as confers a right. No man should long enjoy the right who neglects to discharge the duty. Hence, there should be a law providing that voting for national, State and County officers, and for Town Representatives should be by check-list, and if any person whose name is on the check-list neglects to vote for a specified time, for example, shall not be restored until five years or other specified period has elapsed, unless he can satisfy the board of civil authority that during the specified period he was unable to exercise the right by reason of sickness or of necessary absence from his home. Such a law would tend to enforce a discharge of this duty, and remove the claimed necessity for candidates to expend money to bring in voters, or to pay them for their time and expenses for coming in. All such payments partake of the nature of mild bribes, and tend to cheapen and degrade the right.

Thirdly, doubtless the use of money in these days is the danger element most difficult successfully to encounter. Without doubt any person, who for money or other consideration will sell his vote, and any person who will purchase it, should by law lose the right to vote. Any man who holds such low and degrading views in regard to a right so important to the well-being of community and of the life and stability of the nation, is unfit to exercise the right, and in the exercise of the right of self-defence, it should be taken from him. In the administration of civil affairs, no one known to be a criminal, or to neglect to discharge the duties required, or to use his trust power to make personal gain, should be appointed to discharge the duties of an important trust.

It is also well known that immense moneyed corporations and millionaires have, and will expend hundreds of thousands of dollars to secure elections to very important offices. The expenditure may not be, and usually is not, made by the candidate. It is done through agents, attorneys, and political friends. The candidates will claim

that the expenditure, or so far as known to them, was for legitimate purposes. What are legitimate expenditures in support of one's candidacy? The determination of this important question must not be left to the candidate. Purposes for which a person of a high, keen sense of propriety would call the use of money illegitimate, another person, less scrupulous, will call its use legitimate. Hence, the illegitimate purposes should be defined. Then, too, a candidate who intends only to use it for strictly legitimate purposes, and who has already made large expenditures, if he finds that further expenditures for more questionable or for illegitimate purposes are necessary to secure his election, will be sorely tempted to make them, rather than lose what he has already expended, and his election. Corporations, too, have no souls, and to carry, as the managers consider, very desirable ends, will expend large sums of money for very questionable purposes. When desiring the passage or the defeat of a particular law, they have been known to expend large sums not only in employing an able attorney to appear before legislative committees, but also in retaining attorneys who are in the Legislature or who can influence legislators. They have been known to use money in much the same way to procure the election of some person who could aid in securing or defeating such legislation, or other measures, desired or undesired.

To apply the law of self-defence so as to eliminate such and other equally objectionable practices, presents a more difficult question for solution. I know of no law which will reach and remove these sources of danger and purify the elective franchise, unless it be a Corrupt Practice Act, like the one in England, or of a kindred nature. At one time a shameful use of money and corrupt practices controlled nearly all elections to Parliament. These have been mostly eliminated by what is called the Corrupt Practice Act. As I understand, that Act defines what acts and practices are considered corrupt and against public policy, and provides that all elections shall be void to which one of the corupt acts has contributed, or into which it has entered. The Act proceeds upon the principle, familiar to the bar, that the person apparently elected, by claiming the election, ratifies the corrupt act, although it is not shown that the corrupt act was done at his request, or with his knowledge, nor if it be shown that he did not participate in its committal. It should provide that no candidate shall directly or indirectly expend more than a specified sum in support of his candidacy, and that he shall file a sworn itemized statement of the sum expended and of the purposes for which it was

expended. His expenditures should be confined to his personal expenses and to contributions to the committees of his party. If he expends, or has to take advantage of, any expenditures outside these limits, his election shall be void. The committee of his political party may make expenditures in proclaiming and explaining its policy and principles, and combating those of the opposing party, but not in making a personal canvass of the voters in favor of a particular candidate. Such canvass should be deemed against public policy. Why should a candidate hire agents or attorneys to go through his district, canvassing the voters and trying to induce them to vote for him? Are such votes given on his merits, or because of his money? What chance has the worthy, poor candidate in such a canvass? All expenditures for canvassing and working among secret organizations should be deemed corrupt. Open discussion alone is consistent with government by the people, for the people. All agreements between different candidates, by which they are mutually to help each other and influence their followers, each to vote for the other, should be deemed corrupt. The individual voters in such events are not left to their own inclinations and choice in casting their votes. Besides, such agreements foster the creation of political rings, led by machine bosses, for the control and distribution of all offices among a favored few.

These are some of the acts and practices which I think should be deemed corrupt and against public policy, and against which the aid of the right of self-defence should be invoked. Other corrupt acts may occur to members of the bar. Is not the law, briefly outlined, demanded, to remove the elements of danger, and to elevate the elective franchise in the estimation of the people? Can we expect less than the assassination of our beloved President by some illy-balanced, cracked-brain, selfish zealot, when he sees such practices and so much money used in elections, and knows that he is poor, and therefore has no chance nor opportunity to secure a government position? Is there more than a step for such a one to take, in his one-sided reasoning, to reach the conclusion that all rulers are oppressors, and all expenditure for the support of governments, unjust burdens, oppressive to the poor?

One other law seems to be required to curtail, if not take away, the power by which political rings and machine bosses have controlled elections and distributed the offices among a chosen few, regardless of the desire of a majority of the voters. The Australian ballot law, which practically precludes the voters from electing any but the

nominees of the ring and machine, furnishes the opportunity by which such combinations accomplish their purposes, so long as the nominations are made by delegates selected in caucuses ungoverned by any statutory regulations. It is easy for the rings and machine bosses to pack the caucuses, and control the selection of the delegates who will be obedient to their wishes. Let the primary caucuses be surrounded by the same safeguards which are thrown around elections, and the nominations be made by the voters in the primary caucuses. Under the present law, the nomination of candidates is often equivalent to their election. Yet no safeguards are placed around the making of nominations. With a law regulating nominations and requiring them to be made directly through the votes of electors cast in the primary caucuses, warned and controlled by a law similar to the one recently enacted in Minnesota, the elections will be directly in the control of the voters, and the danger arising from political rings and machine bosses will be eliminated, or greatly lessened.

Jonathan Ross.